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VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Mary Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station
Boston, MA 02110

Re: D.T.E. 02-15

Dear Ms. Cottrell:

Please accept this letter brief on behalf of XO Massachusetts, Inc. ("XO") in lieu of a more formal brief. Unfortunately, the telecommunications industry has been hard hit recently by the weakening economy and has seen a significant number of bankruptcy filings in the last year including Network Plus. This economic difficulty in the industry potentially impacts customers if carriers haphazardly leave the Massachusetts market because of their bankruptcy filing. In addition, the remaining Massachusetts carriers, looking to acquire customers that must find a new service provider, find it difficult to reassure customers that the migration to the new carrier will be seamless and efficient.

XO has experienced situations where it has acquired customers of carriers exiting the Massachusetts market including Network Plus but are not able to convert the customer to XO service by the date the exiting carrier gives the customer for when it will discontinue service. This is generally because Verizon, not necessarily

due to any fault of its own, is not able to perform the necessary work to migrate the customer from the exiting carrier to XO in the timeframe established by the exiting carrier.¹ It is difficult to assure a potential customer that XO will do its best to ensure the customer does not lose service without clear Department guidelines to share with the customer.²

XO urges the Department to adopt the Mass Migration Guidelines ("NY Guidelines") recently approved by the New York Public Service Commission.³ The NY Guidelines were developed by an industry group balancing its competing interests and then approved by the New York Commission. The NY Guidelines establish a migration process that involves all carriers involved in migrating customers from the exiting carrier to a new carrier. The NY Guidelines also provide the Department an opportunity to monitor the migrations to ensure customers are being cared for and to help resolve potential issues as they might arise (including differences in service delivery for retail and wholesale services).

¹ There are situations when the customer is able to get a better date for Verizon retail service than XO can get from Verizon for wholesale service. Although these situations concern XO and are problematic, they are not an issue in this case. However, even Verizon retail has had situations in New York where it could not migrate a customer from the exiting carrier in the timeframe established by the exiting carrier.

² The Department went a long way in requiring all carriers exiting the Massachusetts market to give 60 days written notice to the Department. *Investigation by the Department of Telecommunications and Energy on its own Motion, pursuant to G.L. c. 159 §§ 12 and 16, into the regulations, practices, equipment, appliances, and service of Broadview Network, Inc.*, p. 11. XO suggests that additional guidelines are necessary.

Although the existence of these guidelines has not assured all carriers follow them and some customers have been put at risk for losing service,⁴ they have been used successfully for several carriers exiting the New York market (e.g., Teligent) to manage an orderly migration of customers to new carriers. In those instances where a carrier did not follow the NY Guidelines, it gave the New York Commission the vehicle to ensure customers have continued service until they can select a new carrier.⁵ Although the Department currently has the authority to act when a carrier exits the Massachusetts market as it did with Broadview Networks and in this case, having approved guidelines gives all parties, including customers, provides advance notice of what must occur in a mass migration situation and appropriate timeframes in order to minimize customer impact.

Adoption of the NY Guidelines by the Department is in the public interest to ensure customers continue to receive safe and adequate service in Massachusetts as some carriers exit the market. In addition to the NY Guidelines, XO urges the Department to adopt the guidelines for individual customer migrations also adopted

³ *Proceeding on Motion of the Commission to Examine the Migration of Customers Between Local Carriers*, Case 00-C-0188, issued and effective Dec. 4, 2001. (<http://www.dps.state.ny.us/fileroom/doc10880.pdf>)

⁴ *Proceeding on Motion of the Commission as to Compliant by Broadview Networks Inc. with Order Adopting Mass Migration Guidelines*, Case 02-C-0201, issued and effective February 19, 2002. (<http://www.dps.state.ny.us/fileroom/doc11200.pdf>)

⁵ *Id.*

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by the New York Commission.⁶ These guidelines will facilitate efficient and seamless migrations between carriers that will become more common as competition continues to develop in the Commonwealth.

Please file the original and eight (8) copies of this letter. Please return the additional copy to me marked "filed." Please contact me if you have any questions or require additional information.

Respectfully submitted,

/s/ Karen Nations

Cc: Service list (via e-mail and first class mail)

⁶ Case 00-C-0188 issued and effective January 8, 2001. At its February meeting, the New York Commission approved revised guidelines for release for public comment.

CERTIFICATE OF SERVICE

On this 6th day of March 2002, I hereby certify that copies of the foregoing Letter Brief of XO Massachusetts, Inc., to Mary L. Cottrell, Secretary, Department of Telecommunications & Energy filed in Docket D.T.E. 02-15 was sent via e-mail and Federal Express to the Department and by e-mail and first class mail to all other Parties.

/s/ Karen Nations

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